IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TWENTY NINETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE K.C. BHANU

WRIT APPEAL NO : 1109 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 16/03/2004 made in WP No: 15883 OF 1999 on the file of the High Court.)

Between:

1 Govt.of A.P.,rep.by its Prl.Secretary, Revenue Department, Secretariat, Hyderabad.
2 Govt. of A.P.,rep.by its Dist.Collector, Hyderabad Dist.Hyd.

..... APPELLANT(S)

AND

1 Smt.Vimala Mehta, W/o.Sri Sumer Chand Mehta,
R/o.plot No.13,Suryanagar,Karkhana, Secunderabad.
2 Secunderabad Contonment Board rep.by Executive officer, City Civil court Buildings,
Secunderabad.

..RESPONDENT(S)

Counsel for the Appellants: GP FOR REVENUE

Counsel for the Respondent No.1.: MR.P.VENUGOPAL

Counsel for Respondent No.2 : Mr.Deepak Bhattcharje

The Court made the following Order : (per Sri BRSR.J)

The Government of Andhra Pradesh and the District Collector, Hyderabad preferred this appeal against the order dated 16.3.2004 made in W.P.No.15883 of 1999 by a learned single Judge of this Court quashing the memo dated 1.12.1997 issued by the District Collector rejecting the respondent-writ petitioner's request for grant of 'No Objection Certificate' for construction of a building in open plot No.45 admeasuring 475 square yards, situate in S.No.74/9, East Marredpally, Secunderabad Cantonment.

The writ petitioner claims to be the owner of the land on the strength of a registered sale deed dated 20.10.1984. According to the District Collector, the land in question belongs to the Government. There is no dispute whatsoever that the District Collector had already filed a land grabbing case in the Special Court constituted under the provisions of the A.P.Land Grabbing (Prohibition) Act, 1982 and the same is pending in which the respondent-writ petitioner is a party. It is under those circumstances, the District Collector rejected the request of the petitioner for issuing 'No Objection Certificate'.

There is no provision of law under which the Cantonment Board is entitled to insist for production of a 'No Objection Certificate' to consider the application for sanction of a building plan. Under those circumstances, it is unnecessary to go into the question as to the validity of the order passed by the District collector rejecting the request of the writ petitioner vide memo dated 1.12.1997. However, the District Collector cannot be prevented from raising objection before the Cantonment Board for granting permission/sanction of plan by the Cantonment Board in favour of the respondent-writ petitioner. That if any such objection is raised by the District Collector, the same is required to be taken into consideration by the Cantonment

Board before any sanction is made enabling the writ petitioner to construct the building.

Liberty is given to the District Collector to obtain appropriate interlocutory orders from the Special Court where the LGC preferred by the State is pending and awaiting adjudication.

The writ appeal is accordingly disposed of. No costs.

(B.SUDERSHAN REDDY,J)

DT.29.07.2004

(K.C.BHANU,J)

msv.

DEPUTY REGISTRAR

// TRUE COPY//

SECTION OFFICER

To

1 The Principal Secretary,

Revenue Department, Secretariat

Govt. of A.P., , Hyderabad.
2. The District Collector,

Hyderabad District,

Govt. of A.P. Hyd.

3.The Executive officer,

Secunderabad Contonment Board

City Civil court Buildings,
Secunderabad.

4. 2 CCs to Government Pleader for Revenue,

High Court Buildings, High Court of A.P.

Hyderbad.